

Application No.: 10/669,204

Attorney Docket No.: NIDSNZ00101

REMARKS

Claims 11-25 were pending in the present application. By virtue of this response, claim 13 has been cancelled, claims 11-12, 14, and 16-17 have been amended, and new claims 26-27 have been added. Accordingly, claims 11-12 and 14-27 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Double Patenting

Claims 11, 12, and 18-25 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 33-42 of U.S. Patent No. 6,669,687.

In response, Applicant respectfully requests entry of the attached Terminal Disclaimer.

Allowable Subject Matter

Claims 13-17 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. In response, independent claim 11 has been amended to include the limitations of claim 13 which has been cancelled. Accordingly, claim 11 and all its dependent claims should be in condition for allowance.

Rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a)

Claims 11, 12, and 18-25 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by or, in the alternative under 35 U.S.C. §103(a) as being obvious over St. Goar et al. (U.S. Patent No. 6,629,534).

In response, independent claim 11 has been amended to include the limitation of implanting a cinching member which is not disclosed in St. Goar. Accordingly, claim 11 and all its dependent claims are in condition for allowance.

As to new claims 26 and 27, the Examiner states that St. Goar teaches the use of alternative forms of energy but does not teach the use of chemical energy. Applicant respectfully disagrees and requests a reference which suggests motivation to use chemical energy as an equivalent alternative form of energy for altering flow through a biological valve having an annulus.


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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



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